

AMENDED IN ASSEMBLY MARCH 14, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## ASSEMBLY BILL

**No. 550**

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**Introduced by Assembly Member Brown**

February 20, 2013

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An act to amend ~~Section 14839~~ *Sections 14838.5 and 14841* of, and to add *Section 14838.6* to, the Government Code, relating to state government.

### LEGISLATIVE COUNSEL'S DIGEST

AB 550, as amended, Brown. State government: Office of Small Business and Disabled Veteran Business Enterprise Services.

Existing law provides for various programs to encourage the participation of small businesses, as certified by the Department of General Services, in state agency contracts, and sets forth the duties of the Office of Small Business and Disabled Veteran Business Enterprise Services in this regard.

~~This bill would make a technical, nonsubstantive change to this provision.~~

*This bill would require the head of a state agency to promote the use of small businesses in state contracting activity and take every reasonable means to ensure that a state contracting program is administered in a manner that promotes small business participation. This bill would require the head of a state agency to develop a plan for increasing small business participation levels within 60 days when participation levels are low.*

*This bill would require the Department of General Services to examine best practices for utilization of small businesses in their contracting programs and to present findings and recommendations to the*

*Legislature detailing changes to the state's business practices that will provide businesses with greater contracting opportunities within the State of California, as specified.*

*This bill would encourage independent state entities, as specified, to take all necessary actions to comply with the intent and the requirements of this bill.*

*This bill would require a state agency to aggressively pursue an annual 25% small business participation level in state contracting and, for an agency that does not achieve this level, to submit to the Governor's office and the Legislature an explanation for why the level was not achieved and a plan for improving small business contracting. This bill would require the Department of General Services to provide guidance to state agencies in developing a plan for, and taking the necessary actions toward, achieving the 25% participation level.*

*Existing law allows a state agency to award a contract for the acquisition of goods, services, or information technology that has an estimated value of greater than \$5,000, but less than \$250,000, to a certified small business, including a microbusiness, or to a disabled veteran business enterprise, as long as the agency obtains price quotations from 2 or more certified small businesses, including microbusinesses, or from 2 or more disabled veterans business enterprises.*

*This bill would increase the \$250,000 amount to \$500,000.*

*This bill would not require an action that would result in the violation of a court order or a loss of eligibility for federal funding.*

*This bill would also make findings and declarations regarding small business participation in state contracting.*

*Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: no.*

*The people of the State of California do enact as follows:*

1     **SECTION 1.** *The Legislature finds and declares all of the*  
2     *following:*

3     *(a) California spends billions of dollars each year on goods,*  
4     *information technology, services, construction, and public works*  
5     *contracts.*

6     *(b) California small businesses comprise nearly 98 percent of*  
7     *all businesses in the state, employing more than 50 percent of*

1 *California's workforce, and generating more than one-half of the*  
2 *state's gross domestic product.*

3 *(c) Small businesses are the principal source of new jobs in*  
4 *California's economy and are instrumental to the health of*  
5 *California's economy.*

6 *(d) California should lead the nation in creating an optimum*  
7 *environment that affords all businesses equal access to state agency*  
8 *contracting opportunities, thereby enhancing and encouraging*  
9 *competition and preserving the free enterprise system.*

10 *(e) Disabled veterans have made incomparable sacrifices while*  
11 *serving and protecting our country and most disabled veteran*  
12 *business enterprises are also certified California small businesses.*

13 *(f) Enhancing opportunities for small business to participate in*  
14 *the state contracting process is "good business" for California.*

15 *SEC. 2. Section 14838.5 of the Government Code is amended*  
16 *to read:*

17 14838.5. (a) Notwithstanding the advertising, bidding, and  
18 protest provisions of Chapter 6 (commencing with Section 14825)  
19 of this part and Chapter 2 (commencing with Section 10290) and  
20 Chapter 3 (commencing with Section 12100) of Part 2 of Division  
21 2 of the Public Contract Code, a state agency may award a contract  
22 for the acquisition of goods, services, or information technology  
23 that has an estimated value of greater than five thousand dollars  
24 (\$5,000), but less than ~~two hundred fifty thousand dollars~~  
25 ~~(\$250,000)~~ *five hundred thousand dollars (\$500,000)*, to a certified  
26 small business, including a microbusiness, or to a disabled veteran  
27 business enterprise, as long as the agency obtains price quotations  
28 from two or more certified small businesses, including  
29 microbusinesses, or from two or more disabled veterans business  
30 enterprises.

31 (b) In carrying out subdivision (a), a state agency shall consider  
32 a responsive offer timely received from a responsible certified  
33 small business, including a microbusiness, or from a disabled  
34 veteran business enterprise.

35 (c) If the estimated cost to the state is less than five thousand  
36 dollars (\$5,000) for the acquisition of goods, services, or  
37 information technology, or a greater amount as administratively  
38 established by the director, a state agency shall obtain at least two  
39 price quotations from responsible suppliers whenever there is

1 reason to believe a response from a single source is not a fair and  
2 reasonable price.

3 *SEC. 3. Section 14838.6 is added to the Government Code, to*  
4 *read:*

5 *14838.6. (a) The head of a state agency shall promote the use*  
6 *of small business in state contracting activities and take every*  
7 *reasonable means to ensure that a state contracting program is*  
8 *administered in a manner that promotes small business*  
9 *participation. The head of a state agency shall review small*  
10 *business participation levels within the agency and develop a plan*  
11 *for increasing small business participation levels within 60 days*  
12 *when participation levels are low.*

13 *(b) The Department of General Services shall research and*  
14 *examine the best practices of both the public and private sectors*  
15 *in the utilization of small businesses in their contracting practices*  
16 *and programs. The Department of General Services shall prepare*  
17 *and present findings and recommendations to the Legislature*  
18 *detailing changes to the state's business practices that will provide*  
19 *businesses with greater contracting opportunities within the State*  
20 *of California.*

21 *(c) State constitutional officers, the University of California,*  
22 *the California State University, the Lottery Commission, the Public*  
23 *Employees' Retirement System, that State Teachers' Retirement*  
24 *System, the State Compensation Insurance Fund, and other*  
25 *independent state entities are encouraged to take all necessary*  
26 *actions to comply with the intent and the requirements of the act*  
27 *adding this section.*

28 *(d) This section shall not be construed to require an action that*  
29 *would result in the violation of a court order or a loss of eligibility*  
30 *for federal funding.*

31 *SEC. 4. Section 14841 of the Government Code is amended to*  
32 *read:*

33 *14841. (a) Upon completion of a public contract for which a*  
34 *commitment to achieve small business or disabled veteran business*  
35 *enterprise participation goals was made, the contractor shall report*  
36 *to the awarding department the actual percentage of small business*  
37 *and disabled veteran business enterprise participation that was*  
38 *achieved.*

39 *(b) A state agency shall aggressively pursue an annual 25*  
40 *percent small business participation level in state contracting. A*

1 *state agency that does not achieve a 25 percent level shall submit*  
2 *to the Governor's office and the Legislature an explanation for*  
3 *why the level was not achieved. The explanation shall include a*  
4 *plan for improving contracting opportunities for small businesses.*  
5 *The Department of General Services shall provide guidance to*  
6 *state agencies in developing a plan for and taking the necessary*  
7 *actions towards achieving the 25 percent participation level. This*  
8 *subdivision shall not be construed to require an action that would*  
9 *result in the violation of a court order or a loss of eligibility for*  
10 *federal funding.*

11 ~~SECTION 1. Section 14839 of the Government Code is~~  
12 ~~amended to read:~~

13 ~~14839. There is hereby established within the department the~~  
14 ~~Office of Small Business and Disabled Veteran Business Enterprise~~  
15 ~~Services. The duties of the office shall include:~~

16 ~~(a) Compiling and maintaining a comprehensive bidders list of~~  
17 ~~qualified small businesses and disabled veteran business~~  
18 ~~enterprises, and noting which small businesses also qualify as~~  
19 ~~microbusinesses.~~

20 ~~(b) Coordinating with the Federal Small Business~~  
21 ~~Administration, the Minority Business Development Agency, and~~  
22 ~~the Office of Small Business Development of the Department of~~  
23 ~~Economic and Business Development.~~

24 ~~(c) Providing technical and managerial aids to small businesses,~~  
25 ~~microbusinesses, and disabled veteran business enterprises, by~~  
26 ~~conducting workshops on matters in connection with government~~  
27 ~~procurement and contracting.~~

28 ~~(d) Assisting small businesses, microbusinesses, and disabled~~  
29 ~~veteran business enterprises, in complying with the procedures for~~  
30 ~~bidding on state contracts.~~

31 ~~(e) Working with appropriate state, federal, local, and private~~  
32 ~~organizations and business enterprises in disseminating information~~  
33 ~~on bidding procedures and opportunities available to small~~  
34 ~~businesses, microbusinesses, and disabled veteran business~~  
35 ~~enterprises.~~

36 ~~(f) Making recommendations to the department and other state~~  
37 ~~agencies for simplification of terms and specifications in order to~~  
38 ~~increase the opportunities for small business, microbusiness, and~~  
39 ~~disabled veteran business enterprise participation.~~

1     ~~(g) Developing, by regulation, other programs and practices~~  
2     ~~that are reasonably necessary to aid and protect the interest of small~~  
3     ~~businesses, microbusinesses, and disabled veteran business~~  
4     ~~enterprises in contracting with the state.~~

5     ~~(h) Making efforts to develop, in cooperation with associations~~  
6     ~~representing counties, cities, and special districts, a core statewide~~  
7     ~~small business certification application that may be adopted by all~~  
8     ~~participating entities, with any supplemental provisions to be added~~  
9     ~~as necessary by the respective entities.~~

10    ~~(i) The information furnished by each contractor requesting a~~  
11    ~~small business or microbusiness preference shall be under penalty~~  
12    ~~of perjury.~~